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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,630	12/22/2003	Lester Kent Rhodes	1162	7407

36288 7590 12/16/2005

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EXAMINER

BRAHAN, THOMAS J

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/743,630	RHODES, LESTER KENT	
	Examiner	Art Unit	
	Thomas J. Brahan	3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the lift arm and bucket dumping ram of claim 2 and the pin and clevis mounts of claim 5 must be shown, or the features must be canceled from the claims. No new matter may be entered.

2. If corrected drawing sheets are filed to overcome the above objection, they must be in compliance with 37 CFR 1.121(d). An amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

3. If the changes are not accepted by the examiner, because, for example, they introduce new matter, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.

5. Claims 1-18 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For example:

a. In claim 1, it is unclear as to how applicant is considering the claimed apparatus as having a first and a second means for pivoting and counter-pivoting the pedestal. Claim 2, which further limits the first means, has this means as a "mounting frame and lift arm and bucket dumping ram coupling means". However these structures, a frame and a coupling, cannot pivot or counter-pivot the pedestal. They are connections to elements which can perform the pivoting, but they themselves do not move anything, as to be considered as a means for pivoting the pedestal.

b. Claim 1, in line 7 and again in line 8, refers to "said means" without indicating which of the three means which are recited in the claim is being further limited.

c. In the last three lines of claim 1, it is unclear as to whether applicant intends the "rotating movements of the pedestal about the lateral and longitudinal axes" as the same movements as the "pivoting and counter-pivoting" of the pedestal recited in lines 6 and 7 of the claim or if these

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latter recited movements are in addition to earlier recited movements.

d. Claim 2, line 4 refers to "said means" without indicating which of the four means now recited in the claims is further being limited. It is also unclear as to how this means (that is to say any of the four means present in the claims) can be considered formed wholly with the mounting frame (24).

e. In claim 2, line 3, the phrase "a mounting frame and lift arm and bucket dumping ram coupling means" is not fully understood. As the phrase does not contain any punctuation, it appears as though it is attempting to claim only one element; a mounting frame and lift arm and bucket dumping ram coupling means. The phrase could also be interpreted as having three distinct elements, the first one being a mounting frame, the second one being a lift arm, and the third one being a bucket dumping ram coupling means. Alternatively, the phrase could be considered as drawn to two different elements the first element being a mounting frame and the second element being a lift arm and bucket dumping ram coupling means. As claim 5 further limits an element which is identified as "the lift arm and bucket dumping ram coupling means", the two element interpretation appears to be applicant's intending meaning for the phrase. If this is so, applicant should amend claim 2, line 3, by placing the term "a" after the term "and" as to separate the mounting frame inclusion from the lift arm and bucket dumping ram coupling means inclusion.

f. It is unclear as to how the applicant is considering the feet as segmented, as recited in claim 7. How is the applicant using this term?

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 1, as best understood, is rejected under 35 U.S.C. § 102(b) as being anticipated by Harinen. Harinen shows a crane support comprising:

a pedestal (support block 1) having an upper end, and having lateral and longitudinal axes;

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crane mounting means (the angled braces extending to the boom 4) fixedly attached to or formed wholly with the upper end of the pedestal; and,

first and second means (any two of three disclosed actuators the first at rotating ring 12, the second being the swivel actuator 8, and the third being the actuators on boom 10) for alternately pivoting and counter-pivoting the pedestal, the means being connected operatively to the pedestal (1), and the means respectively controlling rotating movements of the pedestal about the lateral and longitudinal axes.

9. Claims 1-9 and 16-18, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Grant. Grant shows a crane support comprising:

a pedestal (turntable 56) having an upper end, and having lateral and longitudinal axes;

crane mounting means (for scooping machine 20) fixedly attached to or formed wholly with the upper end of the pedestal; and

first and second means (82 and 80) for alternately pivoting and counter-pivoting the pedestal, the means being connected operatively to the pedestal (70), and the means respectively controlling rotating movements of the pedestal about the lateral and longitudinal axes.

The first means (82) of Grant is a mounting frame with a lift arm and bucket ram coupling means (for the lower boom assembly 86) as recited in claim 2, and is being considered as pivoting and counter-pivoting the pedestal (70) to the same degree as applicant's first means is a pivoting means, note paragraph 5a above. Note also that when the pedestal is not locked in place, the lower boom movements would move the pedestal. The second means includes an axle (supporting tube 72a or the axle of motor 80), as recited in claim 3. The support has laterally extending outriggers (two of the outriggers 44) as recited in claim 4. The brackets at the first means (82) are pin and clevis mounts, as recited in claim 5. The outriggers extend segments laterally, as recited in claim 6, and have second telescoping means for the feet (52; see figure 4), as claim 7 is best understood. The motor (80) alternately resists and permits pivoting motion about the longitudinal axis of the pedestal (56), as recited in claim 8. The first and second telescopic means for the outriggers are hydraulic cylinders (46 and 49), as recited in claim 9. There are two outriggers at the front of the pedestal which extend forwardly (as they have a forward extent) and downwardly, as recited in claim 16. All the outriggers have square inner and outer housings that are a quill and a slide shaft combination, as recited in claim 17, and a two way hydraulic cylinder, as recited in claim 18.

10. Claims 1-3, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Labelle et al. LeBelle et al shows a crane support comprising a pedestal (drum 18) having an upper end, and having lateral and longitudinal axes, crane mounting means (56) fixedly attached to or formed wholly with the upper end of the pedestal, a first means (14) for rotating the pedestal about a lateral axis and a second means (20) for rotating the pedestal about the longitudinal axes. Note that the claims do not

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specify which axis is the longitudinal axis and that it is conventional to consider the center of radius of a cylinder as its longitudinal axis. The first means comprises a lift arm and bucket dumping ram coupling, as recited in claim 2. The second means has an axle, as recited in claim 3.

11. Claims 1-5 and 16, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Dalland et al. Dalland et al shows a crane support comprising a pedestal (at 14) having an upper end with a crane mounting means (24) attached thereto or formed wholly with the upper end of the pedestal, a first means (26) for rotating the pedestal about a lateral axis and a second means (motor 28) for rotating the pedestal about the longitudinal axes. The center of radius of a cylindrical pedestal is being considered as its longitudinal axis. The first means comprises a lift arm and ram coupling, as recited in claims 2 and 5. The second means has an axle, as recited in claim 3. Support member (13) has laterally extending outriggers (13b and 13c), as recited in claim 4, and a forwardly extending outrigger (13a), as recited in claim 16.

12. Claims 6-9, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dalland et al in view of Vlaanderen. Dalland et al shows the basic claimed crane support but varies from the claims by not showing the details of the lateral outriggers as have them telescoping laterally. Vlaanderen shows a similar small crane with outrigger legs (40) mounted on quill and slide shaft combinations (36) as to extend laterally. It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the outriggers of Dalland et al by forming them as quill and sliding shaft combinations which extend laterally to increase stability, as taught Vlaanderen et al. The motor (28) of Dalland et al alternately resists and permits pivoting motion about the longitudinal axis of the pedestal (26), as recited in claim 8. Re claim 9; Dalland et al has the outriggers adjustable vertically, but does not specify that this is by hydraulic cylinders. However this is conventional in the art and is also taught by Vlaanderen.

13. Claims 10 and 11, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Grant in view of Pilch. Grant shows the basic claimed crane support, as discussed above, but varies from claim 10 by having a motor (80) rotating the pedestal about its vertical axis instead of having hydraulic cylinders. Pilch shows a similar pedestal rotated by hydraulic cylinders (27 and 28). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the crane support of Grant by using hydraulic cylinders to rotate the pedestal, to provide a simpler more economical drive with less moving parts, as taught by Pilch. The drive cylinders resist and lock the pedestal in place as well as rotating it. The outriggers of Grant have square inner and outer housings that are a quill and a slide shaft combination, as recited in claim 11.

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14. Claims 10 and 11, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dalland et al in view of Vlaanderen, as applied above to claim 9, and further in view of Pilch. Dalland et al, as modified, shows the basic claimed crane support, as discussed above, but varies from claim 10 by having a motor (28) rotating the pedestal about its vertical axis instead of having hydraulic cylinders. Pilch shows a similar pedestal rotated by hydraulic cylinders (27 and 28). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the crane support of Dalland et al by using hydraulic cylinders to rotate the pedestal, to provide a simpler more economical drive with less moving parts, as taught by Pilch. The drive cylinders resist and lock the pedestal in place as well as rotating it. The laterally extending outriggers arrangement of Vlaanderen has square inner and outer housings that are a quill and a slide shaft combination, as recited in claim 11.

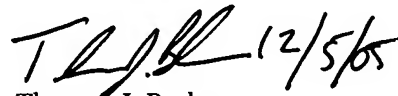
15. Claims 12-15, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dalland et al in view of Vlaanderen and Pilch, as applied above to claim 11, and further in view of Wills. Dalland et al, as modified, shows the basic claimed crane support but varies from the claims by not showing the vertical portions of the outriggers as quill and slide shaft combinations. Wills shows a similar mining vehicle which has its outrigger formed as a quill (14), a sliding shaft (15) and a cylinder (20). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the outriggers of Dalland et al by forming the vertical portions of the outriggers as quill and sliding shaft combinations, as to use a rugged and economical jack, as taught Wills. The lower end of the pedestal of Dalland et al is considered as its base, as recited in claim 13. Using steel for the quill and shaft combinations or the pedestal, as recited in claims 14 and 15, would have been an obvious design consideration, since it has been held to be within the general skill of a worker to select a known material on the basis of suitability for the intended use as a matter of obvious design choice, see *In re Leshin*, 125 USPQ 416.

16. Claims 17 and 18, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dalland et al in view of Wills. Dalland et al shows the basic claimed crane support, as detailed above, but varies from the claims by not showing the outriggers as quill and slide shaft combinations. Wills shows a similar mining vehicle which has its outrigger formed as a quill (14), a sliding shaft (15) and a cylinder (20). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the outriggers of Dalland et al by forming them as quill and sliding shaft combinations, as to use a rugged and economical jack, as taught Wills.

17. Bauer, Asche, Wait, Lovitt and Jorgenson are cited as showing crane pedestals mounted for movements about their lateral and longitudinal axes.

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18. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Ms. Katherine Matecki, can be reached at (571) 272-6951. The new fax number for all patent applications is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Thomas J. Brahan
Primary Examiner
Art Unit 36544